

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERONICA GUTIERREZ, ERIN WALKER
and WILLIAM SMITH, as individuals and
on behalf of all others similarly situated,

Civil Case No.: CV-07-5923 WHA

[PROPOSED] ORDER RE DISTRIBUTION OF UNCLAIMED FUNDS

Plaintiffs,

V.

WELLS FARGO BANK, N.A.,

Defendant.

Having reviewed the parties' recommendations for the distribution of unclaimed judgment funds in this case (Dkt. 711, "Recommendation"), on December 14, 2016, the Court issued an Order: approving the proposed unclaimed property process as described in section II.A of the Recommendation and in the accompanying Declaration of Phil Cooper Re Escheatment Procedures (Dkt. 711-1, "Cooper Decl."); approving supplemental costs of administering such process; and directing Plaintiffs to submit a proposed order reflecting the approval of this plan. Dkt. 716. Good cause appearing, the Court hereby ORDERS as follows:

1. Following completion of the distribution of the restitution judgment to the class members in this case, there remains approximately \$50,000,000 in unclaimed judgment funds. These unclaimed funds are comprised of amounts-certain that were calculated specifically for each of identified account holders in the class, as proven at trial. The unclaimed funds result from class members in “Group 3” (*i.e.*, class members without a current account at Wells Fargo) who have not negotiated their judgment checks (hereinafter, “Uncashed Class Members”).

1 2. With respect to the unclaimed funds in this case, by no later than January 31,
 2 2017, the Class Administrator shall commence implementation of the procedures for the disposition of
 3 unclaimed property as provided under the respective state law applicable to each Uncashed Class
 4 Member.¹ Pursuant to such process, the Class Administrator shall hold the unclaimed funds for a
 5 “dormancy period” of three (3) to five (5) years, as dictated by applicable state law. During this
 6 dormancy period, the Uncashed Class Members to whom the funds belong shall be able to contact the
 7 Class Administrator to request issuance of their funds. Prior to the end of the dormancy period, the
 8 Class Administrator shall send “due diligence” notices to the last known addresses of Uncashed Class
 9 Members who have not yet claimed their funds, pursuant to the parameters of the applicable states’ laws.
 10 For any funds that remain unclaimed at the end of the dormancy period, the Class Administrator shall
 11 report such funds to the applicable state authorities, after which the state authorities will hold such
 12 funds, which will continue to be available for the Uncashed Class Members to claim, from the state,
 13 pursuant to the applicable state’s unclaimed property process. *See* Dkt. 711-1 (Cooper Decl.).

14 3. By no later than January 31, 2017, the Class Administrator shall update the
 15 dedicated case website to include relevant information regarding the unclaimed funds and instructions
 16 on how to retrieve such funds.

18 4. In order to provide additional notice to Uncashed Class Members about the
 19 unclaimed funds, by no later than January 31, 2017, the Class Administrator shall commence an Internet
 20 notice campaign consisting of sponsored ads on Facebook, targeted at California consumers, which
 21 provide notice of the unclaimed funds and include a link to the case website. *See* Dkt. 711-1 (Cooper
 22 Decl.), ¶¶ 6-7.

23 5. The supplemental administrative costs associated with the unclaimed property
 24 process directed by this Order (including the costs of the Internet notice campaign) shall be capped at

26 ¹ In determining which state’s unclaimed property law to apply for each Uncashed Class Member, the
 27 Class Administrator shall use the Uncashed Class Member’s last known address.

1 \$542,183. The amount of \$542,183 shall be deducted from the unclaimed funds—resulting in a *pro rata*
2 reduction of approximately 1% of the funds that will be available to Uncashed Class Members to claim
3 pursuant to the unclaimed property process—and held by the Class Administrator for payment of these
4 supplemental administrative costs.

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6 **IT IS SO ORDERED.**
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9 DATED: December 15, 2016.
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Hon. William Alsup
United States District Judge